

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:10-CV-328-BO

MATTHEW GRAVES,
Plaintiff,

v.

UNITED STATES FEDERAL BUREAU
OF INVESTIGATION,
Defendant.

ORDER

This *pro se* matter is before the Court on Plaintiff Mathews Graves' application to proceed *in forma pauperis* and for frivolity review. Magistrate Judge David W. Daniel filed a Memorandum and Recommendation ("M&R") on September 3, 2010. Plaintiff, despite being advised of his right to do so, failed to file objections to Judge Daniel's M&R. This matter is now ripe for adjudication. For the reasons set forth below, Plaintiff's application to proceed *in forma pauperis* is GRANTED; however, Plaintiff's complaint is DISMISSED for failure to state any claims upon which relief can be granted.

STATEMENT OF THE CASE

Plaintiff filed an application to proceed *in forma pauperis* and a complaint on August 11, 2010. Plaintiff's complaint does not cite any legal basis for relief. Instead, the complaint details, in nearly four pages of hand-written text, Plaintiff's unsuccessful attempts to secure and maintain gainful employment. Magistrate Judge David W. Daniel issued a memorandum and recommendation that Plaintiff's application to proceed *in forma pauperis* be granted but that the case itself be dismissed as frivolous under 28 U.S.C. § 1915. The M&R and a notice of Plaintiff's right to object to the Magistrate's recommendation were sent to the Plaintiff's last known address. This correspondence was returned as undelivered. [DE 5].

DISCUSSION

The Court finds that Plaintiff has provided sufficient evidence of an inability to pay required court costs. Accordingly, his application to proceed *in forma pauperis* is granted. However, the Court must also conduct a review pursuant to 28 U.S.C. § 1915(e)(2) which requires the Court to dismiss all or any part of an action found to be frivolous or malicious, which fails to state a claim upon which relief can be granted, or which seeks money damages from a defendant immune from such recovery. *See Cochran v. Morris*, 73 F.3d 1310, 1315-16 (4th Cir. 1996) (discussing *sua sponte* dismissal under predecessor statute 28 U.S.C. § 1915(d)). A case is frivolous if it lacks an arguable basis in either law or fact. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1985). *Pro se* complaints are entitled to more liberal treatment than pleadings drafted by attorneys. *See White v. White*, 886 F.2d 721, 722-23 (4th Cir. 1989). Notwithstanding, the Court is not bound to accept the truth of the pleadings and may dismiss claims which are based on wholly irrational or incredible factual allegations. *See Denton v. Hernandez*, 504 U.S. 25, 33 (1992). But absent such wholly fantastic claims, the "initial assessment of the *in forma pauperis* plaintiffs factual allegations must be weighted in favor of the plaintiff." *Id.* at 32.

The Court has reviewed Plaintiff's complaint and finds the pleading insufficient to survive review under 28 U.S.C. §1915(e)(2). Plaintiff alleges that he has attained a Bachelor's degree in Chemistry and that he is a "Quality Assurance Laboratory Chemist" by trade. Compl. at 3. Plaintiff alleges that since 2008 he has completed "hundreds" of applications for employment with Defendant, but he has not received one response for an interview. *Id.* Additionally, Plaintiff details a number of physical injuries that he has sustained in the course of his prior twenty positions of employment. *See Compl. passim*. He demands conflicting amounts of monetary damages against such non-parties as Wake County, North Carolina. *Id.* at 5.

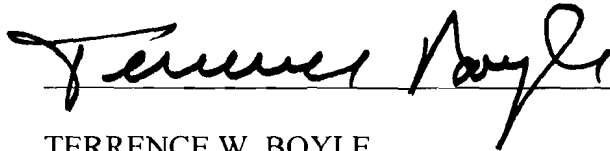
Based on the allegations made in the complaint, the Court finds no basis for claims against the named defendant, the Federal Bureau of Investigation. The Court further finds that Plaintiff has failed to state any claim cognizable in Federal Court.

CONCLUSION

A full and careful review of the M&R and other documents of record convinces the Court that the recommendation of the magistrate judge is in accordance with the law and should be ADOPTED. Therefore it is ORDERED AND ADJUDGED that Plaintiff's application to proceed *in forma pauperis* is GRANTED; however, Plaintiff's complaint is DISMISSED for failure to state any claims upon which relief can be granted.

SO ORDERED.

This 19 day of October, 2010.

A handwritten signature in black ink, appearing to read "Terrence W. Boyle", is written over a horizontal line.

TERRENCE W. BOYLE

UNITED STATES DISTRICT JUDGE
